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Petitioning in the Scottish Church Courts, 1638-1707

This article explores the use of petitions in, and by, the courts of the Church of Scotland. At several moments in the early modern period, addresses from the Scottish church courts to the civil authorities contributed to the creation or resolution of political crises. Scholars have recognised the importance of these petitions, especially in 1637, when representatives of the church courts joined a campaign of supplication against a new prayer book imposed by King Charles I, and 1707, when several courts addressed the Scottish parliament against closer union with England.¹ Moreover, historians considering the local impact of the Church have inevitably referred to supplications concerning such matters as discipline, poor relief and the supply of ministers.² But while vast numbers of petitions survive in the records of the post-Reformation Kirk, historians have not yet systematically examined the nature and uses of these documents. This article begins the task. It draws attention to the generic features of petitions and addresses, considering the ways in which they were written and presented, and investigating the purposes they served. The well-known addresses on major political questions, I argue, were but one manifestation of a wider phenomenon. Petitions were pervasive in the work of the church courts, and even those connected with the most routine processes of ecclesiastical administration and discipline yield rich insights into the lives of early modern Scots.

Before we discuss the petitions themselves, it will be helpful to describe the courts of the seventeenth-century Church of Scotland. This article draws evidence from two periods in which presbyterianism was the settled Church polity (1638-61, and from 1690 onwards), as well as from the intervening years, when a form of diocesan episcopacy was established. Though there were structural differences between the two systems of Church government, there were also many similarities. In both presbyterian and episcopalian phases, at the bottom of the hierarchy of church courts was the kirk session. Originating in the earliest days of the Scottish Reformation, the kirk session consisted of a parish's minister or ministers, together with lay elders and deacons often numbering twenty or more. The session's elders

¹ On the supplications of 1637, see esp. David Stevenson, *The Scottish Revolution, 1637-1644: The Triumph of the Covenanters* (Newton Abbot, 1973), esp. pp. 64-71; Walter Makey, *The Church of the Covenant, 1637-1651: Revolution and Social Change in Scotland* (Edinburgh, 1979), ch. 2; Laura A.M. Stewart, *Rethinking the Scottish Revolution: Covenanted Scotland, 1637-1651* (Oxford, 2016), esp. pp. 62-70. The addresses of 1706-7 are discussed in more detail below.

² E.g. Margo Todd, *The Culture of Protestantism in Early Modern Scotland* (New Haven, CT, 2002); Chris R. Langley, *Worship, Civil War and Community, 1638-1660* (London, 2016); Rosalind Mitchison, *The Old Poor Law in Scotland: The Experience of Poverty, 1574-1845* (Edinburgh, 2000).

co-operated with the minister to exercise discipline – the policing of parishioners’ morals – while deacons helped to administer poor relief. A large majority of Scottish parishes had kirk sessions by 1638.³ In the 1580s, parishes had been grouped into districts, each overseen by a presbytery. This court was made up of the district’s ministers and, in presbyterian periods, a selection of lay elders. It considered cases of discipline referred from kirk sessions, regulated the behaviour of the clergy and was responsible for providing ministers to parishes. During the periods of presbyterian government, presbyteries ordained men to the ministry; even under episcopacy, when ordination was performed by a bishop, the presbytery (or ‘exercise’, as it was sometimes known) examined the fitness of candidates for the ministry.⁴ We shall see that the presbytery frequently served as a conduit of information and opinions between the localities and the centre.

Above the presbytery was the synod. In the period of episcopalian government, bishops presided over diocesan synods. These were meetings of the clergy of the diocese for the purpose of enacting regulations and scrutinising the work of presbyteries. In their presbyterian form, synods performed similar functions, but were chaired by rotating moderators, and attended by elders as well as ministers.⁵ The chief structural difference between the episcopalian Kirk of 1662-89 and its presbyterian predecessor and successor was the absence, under episcopacy, of a national-level court. In 1663, the Scottish parliament legislated for a national synod, to resemble the general assembly that governed the Church in the decades after the Reformation. But Kings Charles II and James VII did not allow the national synod to meet, preferring to administer the Church through acts of the privy council and direct orders to the bishops.⁶ In this way, the nature of decision-making and the representation of grievances at the centre was quite different in the Church’s episcopalian and presbyterian phases. In the period from the signing of the National Covenant in 1638 until after the invasion of Scotland by Oliver Cromwell in the early 1650s, the general assembly met annually. The commission of the general assembly, a smaller body that convened

³ On the characteristics and early development of the kirk session, see esp. Todd, *Culture of Protestantism*, esp. pp. 8-13; Margo Todd, ‘Introduction’, in Margo Todd (ed.), *The Perth Kirk Session Books, 1577-1590* (Scottish History Society, 2012); John McCallum, *Reforming the Scottish Parish: The Reformation in Fife, 1560-1640* (Farnham, 2010), chs 2, 6.

⁴ On presbyteries, see e.g. James Kirk, ‘Introduction’, in James Kirk (ed.), *Stirling Presbytery Records, 1581-1587* (Scottish History Society, 1981); Walter Roland Foster, *The Church before the Covenants: The Church of Scotland, 1596-1638* (Edinburgh, 1975), ch. 5; Makey, *Church of the Covenant*, ch. 10; Walter Roland Foster, *Bishop and Presbytery: The Church of Scotland, 1661-1688* (London, 1958), pp. 70-83.

⁵ See e.g. Chris R. Langley (ed.), *The Minutes of the Synod of Lothian and Tweeddale, 1648-1659* (Scottish History Society, 2016); Foster, *Bishop and Presbytery*, pp. 83-6.

⁶ Alasdair Raffe, ‘The Restoration, the revolution and the failure of episcopacy in Scotland’, in Tim Harris and Stephen Taylor (eds.), *The Final Crisis of the Stuart Monarchy: The Revolutions of 1688-91 in their British, Atlantic and European Contexts* (Woodbridge, 2013), pp. 98-101.

between full sessions of the assembly to continue its work, gained considerable influence in Scottish political life.⁷ After the re-establishment of presbyterianism in 1690, the general assembly and its commission were again confirmed features of the ecclesiastical system. Both in the 1640s and after 1690, we shall see, the commission of the general assembly used petitions to parliament to represent the Church's views on pressing political matters.

The article begins by assessing the mundane supplications that asked the church courts to take particular actions. Some petitions were made orally, others in written form. A few survive in print, but none before the eighteenth century. Some church court registers imply that a large part of the lower courts' business was conducted in response to supplications, while other court records mention petitions much less frequently. If either type of register gives a misleading impression of the ubiquity of routine supplications, it would perhaps not be profitable to try to quantify them. But it is clear that they were extremely numerous. Mundane petitions were typically submitted by individuals to a court (or a bishop), or from a lower court to a higher one. They called for various measures, including the payment of charity, the absolution of penitents under ecclesiastical discipline and the institution of ministers to vacant parishes. The first part of the article identifies some of the formal characteristics of these supplications. We shall see that the title or heading of the petitions indicated to whom the request was made. Forms of deferential address were used, notably the phrases 'humbly sheweth' at the start and 'your petitioners shall ever pray' at the end. The petitioners' case was introduced, narrated and amplified in a logical order.⁸ We shall also consider the ways in which supplications were presented to the church courts, and suggest some of the potential of these documents for social historians. As recent studies have demonstrated, petitions of this kind can reveal much about the daily lives of ordinary people in the early modern period.⁹

Having analysed routine supplications, the article turns to petitions concerning matters of national significance. Most of the documents in this second category were composed by the higher church courts. Many were directed to parliament or other secular

⁷ David Stevenson, 'The general assembly and the commission of the Kirk, 1638-51', *Records of the Scottish Church History Society* 19 (1975-7), pp. 59-79; John R. Young, 'Scottish Covenanting radicalism, the commission of the Kirk and the establishment of the parliamentary radical regime of 1648-1649', *Records of the Scottish Church History Society* 25 (1993-5), pp. 342-75.

⁸ For these characteristics, see R.A. Houston, *Peasant Petitions: Social Relations and Economic Life on Landed Estates, 1600-1850* (Basingstoke, 2014), esp. chs 9-11. For an earlier period, see Gwilym Dodd, *Justice and Grace: Private Petitioning and the English Parliament in the Late Middle Ages* (Oxford, 2007), esp. pp. 280-90.

⁹ Andreas Würzler, 'Voices from among the "silent masses": humble petitions and social conflicts in early modern central Europe', *International Review of Social History* 46 (2001), supplement, pp. 11-34; Houston, *Peasant Petitions*.

courts, but a few were not formally submitted and were instead designed to reach a wide audience beyond the church courts and civil authorities. Sometimes addresses in this category were made in the expectation of compelling politicians to change their policies. But members of the church courts often knew that their petitions were unlikely to have this effect. Nevertheless, the courts petitioned to express their members' attitudes on points of grave concern, to relieve their consciences and warn the laity of prevalent sins and expected punishments.

Our first type of petition was a standard way of getting things done in the seventeenth-century Scottish Church. People approached the Kirk's courts, in their locality, region or on the national level, with a range of requests. Sometimes petitioners sought charity. In November 1644, the elderly minister Adam Colt 'did supplicate the charitie' of the presbytery of Peebles, which gave him £9.6s.8d. 'for releiving his present necessitie'.¹⁰ Three years earlier, an Irish woman who requested assistance from the synod of Lothian and Tweeddale had her case referred to the region's presbyteries, as better able to coordinate collections for her support.¹¹ Other petitioners sought to expedite the courts' performance of routine functions. Alexander Duncan and Barbara Batey, of Inveresk (Musselburgh), supplicated the presbytery of Dalkeith, complaining that their minister refused to proclaim banns for their marriage. The minister explained that he was unsure whether Batey's former husband, presumed lost at sea, was in fact dead, and the presbytery ordered a further investigation.¹² In 1658, residents of the parish of Saltoun petitioned the synod of Lothian and Tweeddale, seeking its concurrence in installing Patrick Scougal, then minister of Leuchars in the presbytery of St Andrews, as their minister. The synod agreed that its moderator should write to St Andrews in support of the ministerial 'transportation', a process that was often lengthy and bureaucratic in the early modern Church.¹³

Among the most common petitioners were men and women undergoing the Kirk's disciplinary procedures. In 1651, John Paterson, 'ane incestuous person', gave the presbytery of Strathbogie 'a supplicatioune to be absolued', after performing repentance for over

¹⁰ National Records of Scotland [NRS], CH2/295/3, Presbytery of Peebles minutes, 1644-9, fo. 9r. Cf. Hew Scott, *Fasti Ecclesiae Scoticae: The Succession of Ministers in the Church of Scotland from the Reformation*, rev. edn, 8 vols (Edinburgh, 1915-50), vol. I, p. 325, which suggests that Colt died in 1643.

¹¹ James Kirk (ed.), *The Records of the Synod of Lothian and Tweeddale, 1589-1596, 1640-1649* (Stair Society, 1977), p. 121.

¹² NRS, CH2/424/3, Presbytery of Dalkeith minutes, 1639-52, p. 42.

¹³ Langley (ed.), *Minutes of the Synod of Lothian and Tweeddale*, p. 335; David George Mullan, 'Scougal [Scougall], Patrick (1607-1682)', *Oxford Dictionary of National Biography*.

eighteen months by standing in sackcloth in his parish church during sermons. On this occasion, members of the presbytery were unimpressed by Paterson's show of contrition, and he remained under discipline.¹⁴ More successful was William McPherson, an adulterer and fornicator from Inverness, who in 1676 'supplicated' Inverness presbytery to be absolved, having performed repentance in sackcloth before his congregation for 'severall yeares'. McPherson's tearful demeanour influenced the presbytery to accede to his request.¹⁵

The clerks of the seventeenth-century church courts used a variety of words to refer to petitioning behaviour. In 1690, the general assembly appointed a committee 'for overtures References and appeals'; this body was often referred to as the 'Committee of bills'. Among other 'bills' – a general term for formal written submissions – the committee received various documents that were described in the assembly's minutes as 'petitions'.¹⁶ In presbytery records, the verb 'supplicate' and the noun 'supplication' were probably used most often when people asked the courts to act. The terms 'petition' and 'address' seem to have been used interchangeably of such requests, even though in England seventeenth-century 'loyal addresses' to the crown and parliament were typically mere statements of acclamation and adherence.¹⁷ The words 'grievance' and 'complaint' also appear in some court minutes to describe petitions.¹⁸ There was no obvious change over time in the vocabulary used.

Despite this terminological vagueness, we can identify some distinctive characteristics of petitions in the church courts. First, petitions typically asked for a decision to be made, and argued for an outcome that the court might well decline. In this sense, petitions were different from 'references', which passed disciplinary cases up to the higher courts, and 'overtures', which were mostly used to propose new ecclesiastical policies. Because petitions made requests rather than simply stating a point of view, they were also distinct from the 'dissents' or 'protests' that might be expressed by the minority on a court against the judgement of a majority.¹⁹ Petitions had more in common with 'appeals' to a higher court against the sentence of a lower.²⁰ The authors of both petitions and appeals usually expressed themselves in cautious and deferential terms. This brings us to a second characteristic of

¹⁴ *Extracts from the Presbytery Book of Strathbogie, AD. MDCXXXI-MDCLIV* (Spalding Club, 1843), p. 212.

¹⁵ William Mackay (ed.), *Records of the Presbyteries of Inverness and Dingwall, 1643-1688* (Scottish History Society, 1896), pp. 59-60.

¹⁶ NRS, CH1/1/12, Register of the general assembly, 1690-1692, pp. 20, 21, 25, 31.

¹⁷ Mark Knights, 'Participation and representation before democracy: petitions and addresses in premodern Britain', in Ian Shapiro *et al.* (eds.), *Political Representation* (Cambridge, 2010), pp. 45-6.

¹⁸ E.g. Duncan C. Mactavish (ed.), *Minutes of the Synod of Argyll, 1652-1661* (Scottish History Society, 1944), pp. 64, 66, 119, 123.

¹⁹ On protestations, see Karin Bowie and Alasdair Raffie, 'Politics, the people, and extra-institutional participation in Scotland, c. 1603-1712', *Journal of British Studies* 56 (2017), pp. 797-815, at pp. 801-5.

²⁰ E.g. Langley (ed.), *Minutes of the Synod of Lothian and Tweeddale*, pp. 174-5.

petitions in the church courts. These documents were produced by individuals or groups of people who were not members of the court they approached. The ministers and elders of a presbytery or synod could make requests of the court without deploying the humble language of the petition. Indeed, petitioners were, in theory at least, subject or subordinate to the court they supplicated. Whereas the commission of the general assembly communicated with the lower courts by 'letters' and instructions, presbyteries might adopt petitioning formulae in their correspondence with courts above them in the hierarchy.

The Scottish church courts dealt with the full spectrum of the population, encompassing the literate and illiterate. Most evidence was given to the courts orally; men and women attending to make requests did not necessarily write anything down. In 1653, William Charles, who had been excommunicated for eight counts of fornication, appeared before the presbytery of Strathbogie in sackcloth, 'humblie supplicating to be relaxed from the sentence of excommunication, professing his repentance and sorrow for his sin, and promising to amend his life'. With the support of his minister, the presbytery resolved to allow Charles to begin the process of repentance. Probably in his circumstances, as in those of William McPherson mentioned above, the penitent manner of his appearance before the court counted for more than the formality of a written address.²¹

Sometimes a petition was made on its author's behalf by a representative. The minister's widow Eupheme Adamson had her son present Strathbogie presbytery with her supplication for charity, presumably thinking that he, a young graduate, would argue effectively in her favour.²² Adamson's son may not have taken a written petition to the court. But when in 1657 the Catholic Donald O Giligane wanted the synod of Argyll to know that he had converted to protestantism, he prepared a written 'supplication', and commissioned a soldier to present the document and have it 'read before' the synod.²³ Petitions were occasionally delivered to the moderator or clerk for presentation to the court. In 1704, one man who petitioned in this way soon regretted committing his thoughts to paper. Cornet Mungo Campbell, then subject to discipline in Lanark for his suspected fornication, sent an unsigned petition with a letter to the moderator of Lanark presbytery. Campbell's paper was apparently more like a protest than a humble approach to the presbytery, and the court judged it 'a scandalous and infamous lybell, reflecting both upon the presbytrie, the minister and

²¹ *Extracts from the Presbytery Book of Strathbogie*, p. 239.

²² *Extracts from the Presbytery Book of Strathbogie*, p. 218.

²³ Mactavish (ed.), *Minutes of the Synod of Argyll*, pp. 154-5.

session of Lanark'. Appearing before the court, he admitted that he was rash to write a document that was of so little service to his case.²⁴

As in these examples, we often do not have the text of the written supplications mentioned in church court minutes. When a full petition was recorded, we can recognise the humble formulae used. In 1697, the commission of the general assembly received a fulsome address from John Catanach, a divinity student who had been licensed to preach by the episcopalian clergy of Shetland, but now wished to be recognised by the presbyterian courts. After the document's heading, which addressed the 'right Reverend the Moderator and Remanent Ministers' of the commission, Catanach began his supplication with the standard phrase 'Humble sheweth'. He told his story, and concluded by 'Earnestlie supplicateing your wisdomes' – the members of the commission – and declaring himself their 'Humble supplicant'.²⁵ Not all addresses were so deferential. A supplication of 1647 to the commission from John, Lord Yester and the minister Hew Ker was unusually brusque. Asking the commission to consider aspects of a planned alteration of parish boundaries, the supplication contained the minimum of polite formalities. 'To the moderator and reverend brethren of this reverend meeting', it began, 'it is humblie meanit [represented] by John lord Yester and Mr Hew Ker'. After a short narrative of the case, the document stated that 'it is the supplicants desire this venerable meeting might appoynt some brethren' to visit the parish likely to be disadvantaged by the proposal.²⁶

During the period of episcopalian government, it was often necessary for individuals or presbyteries to address their bishop or the synod and bishop collectively. In April 1666, several ministers in Galloway took the opportunity of a synod meeting to petition their bishop for exemption from their statutory obligation to pay an annuity to support the universities. Complaining of their poverty, and their parishioners' reluctance to pay their stipends, the ministers 'did humbly supplicate' and 'earnestly desire and requeist' the bishop to 'represent' their case to his colleagues in the episcopate.²⁷ Ten years later, two ministers and four other men addressed the bishop and chancellor of Moray, requesting that Robert Monro, a recently licensed preacher, be ordained to serve the parishes of Abertarff and Glenmoriston. The petition was part of an initiative to increase clerical provision in the area around Loch Ness, which saw Abertarff disjoined from the parish of Boleskine and Glenmoriston severed from Urquhart. It was necessary to address both the bishop, as patron of Abertarff, and James

²⁴ NRS, CH2/234/4, Presbytery of Lanark minutes, 1699-1709, pp. 159-60.

²⁵ NRS, CH2/1082/5, Presbytery of Orkney minutes, 1697-1701, pp. 19-20.

²⁶ Kirk (ed.), *Records of the Synod of Lothian and Tweeddale*, pp. 210-11.

²⁷ *The Register of the Synod of Galloway, from October 1664 to April 1671* (Kirkcudbright, 1856), pp. 46-7.

Stewart, minister of Inveraven and chancellor of Moray, who was patron of Glenmoriston. But most of the petition's deferential phrases were directed at the bishop. The text began with a standard polite construction ('humblie supplicateth'), and concluded with the petitioners signing themselves 'Your Lo[rds]hip's] must humble affectionat Servants and Supplicants'. Prior to this, they remarked that the bishop 'will move us allwayes in our severall statione to begg that the Lord may continue you long above us in your most holy function'.²⁸ When they addressed a bishop rather than a court, we might suggest, petitioners called on a personalised style of flattery.

After the restoration of presbyterian government, the sort of addresses that would formerly have been made to bishops were now sent to the general assembly or its commission. In 1690, the first general assembly of the re-established Kirk received a petition from its beadles – doorkeepers and messengers. They had served the assembly's predecessor, the 'general meeting' of the presbyterians that had met regularly since James VII tolerated dissenting worship in June 1687, without pay. Now that the presbyterians had access to the resources of the establishment, the beadles hoped to receive a salary. Their petition was a model of the genre. It introduced their claim with a 'Humblie sheweth', referred to the members of the court as 'your wis[doms]', and concluded with the phrase 'And your petitioners shall ever pray'.²⁹ It is unclear how the assembly responded to the beadles' petition.

Many petitions to the assembly in the 1690s were prompted by the unsettled state of the Church after the revolution of 1688-90. The residents of vacant parishes asked for preachers to visit, and presbyterians called for action against episcopalian ministers who had been deposed but continued to preach. Some episcopalian clergy hoped to escape the jurisdiction of the presbyterian courts, while others petitioned to be recognised by the re-established Kirk.³⁰ One petition to the assembly of 1690 came from the presbytery of Kirkcudbright, which requested that the assembly intervene to ensure that Michael Bruce, a presbyterian minister who had started his career in Ireland but was now preaching at Anwoth, could stay in Scotland. The petition had similar structures and phrases to that of the beadles. It was considered in the assembly's committee of bills, which recommended that the

²⁸ Mackay (ed.), *Records of the Presbyteries of Inverness and Dingwall*, pp. 70-1; Scott, *Fasti Ecclesiae Scoticae*, vol. VI, pp. 445-6, 482, vol. IV, p. 126.

²⁹ NRS, CH1/2/1, fo. 55r., Petition of the assembly's beadles, 1690.

³⁰ On the general circumstances, see Jeffrey Stephen, *Defending the Revolution: The Church of Scotland, 1689-1716* (Farnham, 2013), chs 2-3.

assembly write to the presbytery of Down in Ireland, as the ministers of Kirkcudbright had asked.³¹ Bruce stayed in Anwoth, dying there in 1693.³²

The re-established Church was short of ministers, especially in northern Scotland. In 1694, a committee of the general assembly toured the north, censuring episcopalian ministers who were preaching unlawfully, but welcoming into the Church those episcopalians it thought worthy. Donald Mackintosh, minister of Farr, Sutherland, travelled over 100 miles to address the committee at Elgin. Though a former episcopalian, he expressed his willingness to acknowledge presbyterian government. His residence ‘in a Corner of the Nat[io]ne very remot from intelligence’ ensured that he did not know precisely what undertakings he might be required to make to be recognised by the Kirk. Compensating for his uncertainty, his petition deployed dutiful and deferential language. Its conclusion was flamboyant, declaring that ‘your Petitioner shall ever pray that God may direct you in all your actiones, to the glory of God & the good of his Church’. Mackintosh then signed himself ‘Your humble supplicant & sincere servant in the Lord’. He was received into the Church by the committee and continued his career as a parish minister.³³

Whereas some petitions were submitted by individuals or small groups, others were signed by large numbers. Among routine addresses to the general assembly, those relating to the settlement of ministers in churches were particularly likely to list many endorsements. This was most obvious in the period from 1690 to 1712, when ministers were presented to vacant parishes by means of a ‘call’ from the local elders and landowners, often approved by other residents. This system encouraged parishioners to emphasise the quantity of support for their chosen candidate, especially when there was a disagreement about how to fill a vacancy, or when multiple parishes competed for the same minister.³⁴ In 1703, to give one example, ‘the Elders and heads of Families’ in the parish of Monzie, Perthshire, supplicated the commission of the general assembly for the return of their minister William Chalmers, who had been moved to nearby Muthill in the previous year. The petitioners complained that Muthill’s call to Chalmers had been irregular, and did not have the sincere backing of that parish’s many episcopalian residents. Monzie’s petition had 33 signatories, and a notary indicated that 51 further residents were in support but were unable to sign their own names.

³¹ NRS, CH1/2/1, fo. 65, Petition of the presbytery of Kirkcudbright, 1690.

³² Scott, *Fasti Ecclesiae Scoticae*, vol. II, p. 386.

³³ NRS, CH1/2/2/2, fo. 177, Petition of Donald Mackintosh, 1694; Scott, *Fasti Ecclesiae Scoticae*, vol. VII, p. 106, vol. VI, p. 360.

³⁴ Bowie and Raffae, ‘Politics, the people, and extra-institutional participation’, pp. 809-14.

The parishioners achieved their objective: Chalmers was soon reinstalled in Monzie.³⁵ Once again, petitioners had persuaded a church court to take an action that had a significant impact on their lives.

Having examined petitioning in the daily work of the Church, we now turn to petitions drawn up at moments of national crisis. We begin with the series of declarations and addresses produced by the commission of the general assembly and the lower courts objecting to the Engagement in 1648. We then turn to the synod of Glasgow's 'remonstrance' of 1669 against royal policy towards nonconformist ministers and the courts' campaign of addressing against Anglo-Scottish union in 1706-7.

In December 1647, the earls of Lauderdale, Lanark and Loudoun, acting as Scottish commissioners in England, agreed with Charles I a treaty known as the Engagement.³⁶ This document promised Charles, then a prisoner of the English parliament, Scottish military assistance against his English opponents. In return, the king offered to establish presbyterianism in England for three years. While this allowed the commissioners to claim that the Engagement advanced the religious goals of the Solemn League and Covenant (1643), Charles refused to swear the Covenant or to impose it on his English subjects. When news of the Engagement reached Scotland, leading members of the commission of the general assembly were appalled by its terms. The king had not made sufficient concessions in religious matters, the churchmen believed, and the Engagement would ultimately benefit the opponents of presbyterianism. Members of the commission also denied that it would be legitimate to make war on the English parliamentary regime, with which the Scots remained allied by the Solemn League and Covenant.

The commission's response to the Engagement was, at first, to communicate its views directly to parliament, which would decide how Scotland should act on the agreement with the king. But the commission also made its objections known in the country at large, by publishing and distributing a *Declaration ... to the Whole Kirk and Kingdome of Scotland*. Because the king had not granted in full 'the publick desires concerning the Covenant, and Religion', the *Declaration* averred, the Engagement effectively jettisoned the principles on

³⁵ NRS, CH1/2/4/1, fo. 44, Petition of Monzie, 1703; Scott, *Fasti Ecclesiae Scoticae*, vol. IV, pp. 279, 285.

³⁶ For other perspectives on these events, see Stewart, *Rethinking the Scottish Revolution*, ch. 6; Allan I. Macinnes, *The British Confederate: Archibald Campbell, Marquess of Argyll, c. 1607-1661* (Edinburgh, 2011), ch. 9; David Stevenson, *Revolution and Counter-Revolution in Scotland, 1644-1651* (London, 1977), chs 3-4.

which the Kirk and parliament had previously agreed.³⁷ As Laura Stewart has put it, the ‘act of publicizing the *Declaration* transgressed the customary norms of petitioning and posed a challenge to the authority of parliament’.³⁸ The *Declaration* also indicated that the commission was determined to warn against what it saw as the sins of the Engagement, regardless of any influence the churchmen might have over parliament. This was not so much a request for action as a means for the commission’s members to exonerate their consciences. The Engagement was in breach of Scotland’s promises to God in the Solemn League and Covenant, and it was the duty of faithful ministers to point this out.

The same agenda was evident when the lower church courts responded to the preparations for war that followed parliament’s approval of the Engagement. At least ten lower courts drew up petitions against the Engagement, addressed to parliament or the shire war committees. These were more conventional documents than the commission’s *Declaration*. They were nevertheless statements of principled opposition to the policy, rather than attempts to negotiate with its proponents. In May 1648, the presbytery of Perth approved an address against the levies of troops that parliament had ordered to assist the king. The presbytery’s members thought fit ‘[tha]t every one of Ws for discharging of our [con]sciencies in the sight of god sall mak publict signfica[tio]ne of our dislyk’ of the Engagement.³⁹ A week earlier, the presbytery of Kirkcaldy tabled a supplication at a meeting of the shire war committee of Fife. Addressed to parliament, this petition sought to excuse its signatories from cooperating with the levies:

It wold have bein the Joy of our hart that we could w[i]t[h]out wronging of o[u]r [con]sciencies have given obedience to [your] ll [i.e. lordships’] com[m]ands ... [but] being still unsatisfied in [th]e grounds of [th]e lafulnes & necessitie of [th]e p[rese]ntt engagement we doe humblie and in the feare of god intreate yo[u]r L[ordships] nay[the]r to exact nor expect from us that by any means we sould stirr up or incourage the people among who[m] we serve to this ingagement[.]

Even if there was no prospect of preventing troops from being raised to fight for the Engagement, the presbytery felt it necessary to state its position.⁴⁰ Likewise, the presbytery of Dumbarton’s petition asked parliament only that it ‘suspend the forcing & compelling of

³⁷ *A Declaration of the Commissioners of the Generall Assembly, to the Whole Kirk and Kingdome of Scotland* (Edinburgh, 1648), p. 4.

³⁸ Stewart, *Rethinking the Scottish Revolution*, p. 269.

³⁹ NRS, CH2/299/3, Presbytery of Perth minutes, 1647-61, p. 18.

⁴⁰ NRS, CH2/224/1, Presbytery of Kirkcaldy minutes, 1630-53, p. 546.

them to concur in such undertakings, for the lawfulness wherof they themselves have no light from gods word'.⁴¹

In the late 1640s and early 1650s, the church courts repeatedly produced petitions to express conscientious scruples concerning public affairs and to persuade potentially sympathetic people beyond parliament and the government. The term 'remonstrance' came to be used of this sort of address, perhaps in imitation of the document of that name submitted in 1610 by the Dutch Arminians to the states-general of the United Provinces. In October 1650, the Western Association, the division of the army based in the south-west, submitted what it called a 'Humble Remonstrance' to the committee of estates, the body then governing Scotland. This document, which outlined a controversial explanation of the Scottish defeat by Oliver Cromwell at the battle of Dunbar in September, was condemned by the committee and contributed to an emerging split in the Church.⁴² Two weeks before the composition of this inflammatory address, the synod of Glasgow and Ayr adopted its own 'humble remonstrance' to the committee of estates. The text makes clear how the conventional forms of the petition were now harnessed as a means of protest. Justifying its petition, the synod explained that 'our ingagment in a speciall way with our flocks beyond other parts of the land doeth not suffer ws to keep silence, but calls humbly to speak our thoughts of the provoaking causes of that wrath which now presseth the land'. While the document followed the structure we have observed in other supplications, the request for action with which it culminated was revealingly attenuated. 'May it therfor please your Lordships not only to take in good part what we have spoken in the sincerity of our hearts ... but also give such real evidence of your humiliation for these things, and of your purpose to do no more so'.⁴³ The remonstrance stated the synod's position, but it is unclear whether the churchmen seriously expected to effect a change in the committee's actions.

In the changed circumstances of September 1669, the diocesan synod of Glasgow drew up another declaration objecting to the government's actions. Among other things, this document opposed the policy of indulgence. After the re-establishment of episcopacy in 1661-2, the Church faced the combined problems of widespread presbyterian nonconformity and large numbers of vacant parish churches, from which presbyterian ministers had been removed. The indulgences were meant to address these problems by licensing selected

⁴¹ NRS, CH2/546/1, Presbytery of Dumbarton minutes, 1639-54, p. 120.

⁴² James Christie (ed.), *The Records of the Commissions of the General Assemblies of the Church of Scotland, holden in Edinburgh in 1650, in St Andrews and Dundee in 1651 and in Edinburgh in 1652* (Scottish History Society, 1909), pp. 95-106; Stevenson, *Revolution and Counter-Revolution in Scotland*, pp. 155-61.

⁴³ Christie (ed.), *Records of the Commissions of the General Assemblies*, pp. 558-62, quotations at pp. 558, 562.

presbyterian ministers to preach in specified vacant parishes, mostly in the south-west. As far as the episcopalian clergy were concerned, however, this approach magnified the problem of presbyterian dissent, by giving encouragement to the nonconformist clergy while the laws against clandestine preaching were inadequately enforced.⁴⁴

The synod did not produce a formal petition to the king or privy council, but rather passed an act requesting that the archbishop of Glasgow represent its grievances to the other bishops and the council. Thus the procedure was similar to that of the synod of Galloway in its address concerning the annuity in support of the universities. But the indulgence was a much more controversial matter than the annuity, and the synod of Glasgow's members must have doubted that their act would prompt the government to alter its policy. As with supplications against the Engagement, the synod's act was as much a protest as a petition. Having received complaints from episcopalian ministers across the diocese, the synod remarked, it was necessary that the court now speak out, lest 'further silence ... may be constructed as Infidelity or Cowardize as to the great concernem[en]ts of the Church'. But the synod's 'modest Resentments' did not receive a sympathetic hearing from the government.⁴⁵ Archbishop Alexander Burnet was removed from his bishopric for conniving with the synod's act, a new statute confirmed the king's right to issue 'orders concerning the administration of the externall government of the church', and the council granted further indulgences to presbyterians in 1672.⁴⁶ Sir Robert Moray, who showed the synod's act to the king, compared its episcopalian authors to the remonstrants of 1650.⁴⁷ The document soon gained the odious label of 'remonstrance', by which it is now usually known.⁴⁸

Our final case study focuses on the series of petitions made by the commission of the general assembly to parliament as politicians debated a treaty of union with England in late 1706 and early 1707. These addresses, which circulated in print, served not merely to make specific requests of parliament, but also to express a deeper unease with the principle of union. Various scholars have written about these documents, and Karin Bowie has edited

⁴⁴ For a fuller discussion of the context, see Ian B. Cowan, *The Scottish Covenanters, 1660-1688* (London, 1976), ch. 5; Julia Buckroyd, 'The dismissal of Archbishop Alexander Burnet, 1669', *Records of the Scottish Church History Society* 18 (1972-4), pp. 149-55.

⁴⁵ Osmund Airy (ed.), *The Lauderdale Papers*, 3 vols (Camden Society, 1884-5), vol. II, app., pp. lxiv-lxvii, quotations at p. lxiv.

⁴⁶ Keith M. Brown *et al.* (eds.), *Records of the Parliaments of Scotland to 1707* [<http://www.rps.ac.uk/>], 1669/10/13.

⁴⁷ Airy (ed.), *Lauderdale Papers*, vol. II, p. 139.

⁴⁸ Robert Wodrow, *The History of the Sufferings of the Church of Scotland from the Restoration to the Revolution*, ed. Robert Burns, 4 vols (Glasgow, 1828-30), vol. II, p. 143.

them for publication.⁴⁹ But it has not always been sufficiently emphasised that one purpose of the petitioning was to allow ministers on the commission to fulfil what they perceived as their duty as clergymen to speak out in a time of national upheaval. This motivation was entwined with more practical objectives in the commission's addressing campaign.

The commission's first address to parliament, adopted on 11 October 1706 and read in parliament on 17th, asked for measures to be taken to secure the Church's presbyterian constitution. More than the *Declaration* against the Engagement or the remonstrance of 1669, the address observed the deferential formalities of early modern petitioning: 'We do most humbly and earnestly Supplicate and Beseech your Grace and Lordships, That you may be pleased to Establish and Confirm the true Protestant Religion, and all our Sacred and Religious Concerns, in the most Effectual Manner, for their unalterable Security'.⁵⁰ The result was that the government introduced into parliament an act for the security of the Church, designed to guarantee the future of presbyterianism. The first address, then, was a successful negotiation between the commission and parliament about the religious implications of union.

Agreed on 8 November and read in parliament on that day, the commission's second address – which described itself as a 'humble representation and petition' – served a somewhat different agenda. Calling the first supplication a 'General Address', it now proposed, 'with all Humility', 'some Particulars' for members of parliament to consider. Of the six matters raised, three were within the power of the Scottish parliament to resolve. These were that Scots should not in future be required to swear state oaths contrary to presbyterian principles, and that monarchs succeeding Queen Anne should take a new oath to secure the presbyterian settlement. The commission also requested the creation of a post-union mechanism for establishing new parishes and valuing teinds (tithes), functions hitherto performed by a parliamentary committee. Responding to the address, parliament incorporated clauses giving effect to these requests into the act for the security of the Church.⁵¹

But the commission's second address also objected to aspects of the union that the Scottish parliament could do little to modify. It complained that the English sacramental Test and abjuration oath, conditions for holding public office in England, and which were

⁴⁹ See esp. Jeffrey Stephen, *Scottish Presbyterians and the Act of Union 1707* (Edinburgh, 2007), chs 2-3; Karin Bowie, *Scottish Public Opinion and the Anglo-Scottish Union, 1699-1707* (Woodbridge, 2007), ch. 6; Karin Bowie (ed.), *Addresses against Incorporating Union, 1706-1707* (Scottish History Society, forthcoming 2018).

⁵⁰ Bowie (ed.), *Addresses*, p. 00.

⁵¹ Brown *et al.* (eds.), *Records of the Parliaments of Scotland*, 1706/10/251.

expected to apply to post-union British offices, were incompatible with presbyterian principles. Thus the United Kingdom would, the commission feared, discriminate against Scottish presbyterians. But only the English parliament (or its British successor) could alter these requirements. The commission's address concluded by complaining that, because the future British parliament would contain bishops, accepting the union was contrary to Scotland's commitments under the National Covenant (1638) and the Solemn League and Covenant. Here the commission expressed a fundamental objection to Anglo-Scottish union, not in the expectation of changing the constitution of the British parliament, but to put on record the essential incompatibility between presbyterian principles and the settlement:

And lest our Silence should be constructed to Import Our Consent to, or Approbation of the Civil Places and Power of Churchmen, We crave Leave in all Humility, and due Respect to Your Grace and Honourable Estates of Parliament, to Represent, That it is contrary to Our known Principles and Covenants, that any Church-man should bear Civil Offices, or have Power in the Common-Wealth.⁵²

Though couched in deferential terms, this clause of the address was a statement of principle, rather than a step towards negotiation.

The same is true of the commission's final address, agreed on 16 January 1707, and submitted to parliament shortly before the union and act for the security of the Church were finally approved. The address objected to a clause recently added to the act, which allowed the English parliament to pass a parallel measure to guarantee the structures of the Church of England. The commission claimed that the amendment to the Scottish legislation was a 'manifest Homologation' of any resulting legislation in favour of episcopacy and Anglican ceremonies, and would thus 'involve' parliament 'and this Nation in *Guilt*'.⁵³ Because the Solemn League and Covenant committed those who considered it binding to attempt to 'extirpate' episcopacy, the parliament seemed to be acting contrary to a sworn national engagement, and thus committing the sin of perjury.⁵⁴ But members of the commission probably did not believe that parliament would remove the clause. As in 1648, 1650, and perhaps also in 1669, a church court petitioned to express its conscientious objection to a policy, for vindication before God and the Scottish people, but not necessarily in the expectation of changing the minds of those in power.

⁵² Bowie (ed.), *Addresses*, p. 00.

⁵³ Bowie (ed.), *Addresses*, p. 00. This was the commission's fourth address, following the adoption in November 1706 of a less controversial 'representation' to parliament concerning Catholic recusancy and episcopalian dissent.

⁵⁴ For the text of the Solemn League and Covenant, see Brown *et al.* (eds.), *Records of the Parliaments of Scotland*, 1643/6/75.

Petitioning had important uses in the ecclesiastical administration and religious politics of early modern Scotland. Examining what we have called routine petitions helps us to understand the activities of the church courts and the relationships between lay Scots and the Kirk. A systematic study of these addresses would reveal much about the impact of the Church on daily life. As well as giving voice to people below the level of the elites, it would illustrate the engagement of vast swathes of the early modern population with legal forms and processes.⁵⁵ It would allow us better to evaluate how ordinary people interacted with the church courts, and thus to assess the popularity or otherwise of Calvinist discipline in Scotland.⁵⁶

By comparing the courts' addresses on matters of national significance with more mundane supplications, we have seen how the standard framework of the petition was adapted for the purposes of protest. Especially in the period 1648-50, presbyterian ministers felt obliged to warn Scots of what they believed was the sinful drift of events. Even under episcopacy, clergy sought formally to register their opposition to government policy. In 1706-7, the commission of the general assembly's addresses concerning the union made reasonable requests of parliament, and the first address was not particularly controversial or unwelcome. Parts of the second and final addresses, by contrast, stated insoluble objections to the proposed constitution of the United Kingdom. Just as contemporaries employed a range of overlapping terms to label petitions, so these documents were put to various uses.

Petitions offer a fresh perspective on the distinctions and continuities between Scottish presbyterianism and episcopacy. We have seen that the more hierarchical episcopalian system expected of petitioners a higher level of deference than did presbyterianism. Under episcopacy, synods approached bishops, asking them to represent the lower clergy's grievances to the privy council and the crown. During the Church's presbyterian phases, by contrast, presbyteries sometimes petitioned parliament directly. On the other hand, in both systems there was potential for petitions to challenge the state's authority. What churchmen saw as a humble supplication secular politicians might perceive as a subversive 'remonstrance'. While we would normally associate this problem with presbyterianism, with its strong doctrine of ecclesiastical autonomy, it could also occur under episcopacy. Indeed, not all episcopalian clergy were as Erastian as the leading Restoration

⁵⁵ Cf. Würbler, 'Voices from among the "silent masses"'.

⁵⁶ For a negative assessment, see Jenny Wormald, 'Reformed and godly Scotland?', in T.M. Devine and Jenny Wormald (eds.), *The Oxford Handbook of Modern Scottish History* (Oxford, 2012).

politicians in their understanding of the relationship between the church courts and secular power. If some petitions give evidence of the strong alliance between the church courts and the civil authorities, others demonstrate how fragile that relationship could be.